

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JULY 12, 2006**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: VAR-12102 - APPLICANT: TRIPLE FIVE DEVELOPMENT, INC - OWNER: VILLAGE SQUARE BUILDING P, LLC**

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**\*\* CONDITIONS \*\***

Staff recommends DENIAL. The Planning Commission (6-0 vote) recommends APPROVAL, subject to:

**Planning and Development**

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**APPLICATION REQUEST**

The applicant is requesting a Variance to allow 2,404 parking spaces where 2,440 is the minimum required after the addition of a 1,200 square foot restaurant within an existing commercial center on 36.8 acres at 9440 West Sahara Avenue.

**EXECUTIVE SUMMARY**

The proposed Variance is required because of the uses proposed for the newly constructed pad “P” within an existing commercial center. These uses will cause the center to be out of compliance with parking standards applied to the original approval of the site. Under current code requirements, the site is even more significantly impaired due to a new calculation applicable to movie theaters. As such, the site was parking impaired to begin with based on the difference between the original approval and the current code. Therefore, Staff recommends denial of this request as it represents a self-imposed hardship created by the applicant.

**BACKGROUND INFORMATION**

***A) Related Actions***

- 02/15/89      The City Council approved a Rezoning (Z-0139-88) application for the reclassification of property located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard, from N-U (Non Urban) under Resolution of Intent to R-PD4 (Residential Planned Development- 4 Units per Acre), P-R (Professional Office and Parking), C-1 (Limited Commercial), and C-V (Civic), to R-PD7 (Residential Planned Development- 7 Units per Acre), R-3 (Medium Density Residence), and C-1 (Limited Commercial) for the proposed use of Single Family Residential, Multifamily Residential, Commercial and Mixed Use Commercial, which consists of Retail/Service Commercial, Office and Multifamily (multi-story) Residential. The Planning Commission and staff both recommended approval.
- 11/09/98      The City Council approved a Special Use Permit (U-0115-98) and Site Development Plan Review (U-0115-98) on property located north of Sahara Avenue, west of Fort Apache Road to allow a supper club in conjuncture with a proposed 8,802 square foot restaurant. The Planning Commission and staff both recommended approval.

- 02/02/00 The City Council approved an Extension of Time [U-0115-98(1)] application for an approved Special Use Permit (U-0115-98) on property located at 9440 West Sahara Avenue, which allowed a supper club (Joe's Crab Shack). The Planning Commission and Staff both recommended approval.
- 08/18/04 The City Council approved a Site Development Plan Review (SDR-4639) for a 57,092 square foot retail/commercial building (pad "P") and a Waiver of commercial standards for 3 feet of foundation landscaping where 6 feet is required. The Planning Commission and Staff recommended approval.
- 02/15/06 The City Council approved a Special Use Permit (SUP-10406) for a restaurant service bar. The Planning Commission and Staff recommended approval.
- 04/19/06 The City Council approved a Review of Condition (ROC-12097) Number 2 and 4 of an approved Site Development Plan Review (SDR-4639) to allow a zero foot foundation landscape buffer where three feet was allowed and shown on approved plans for a 57,092 square foot retail/commercial building.
- 06/08/06 The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #16/stf).

***B) Pre-Application Meeting***

- 01/10/06 A pre-application meeting with the applicant was held and the following items were discussed:
- Staff informed the applicant of the submittal requirements for a variance application.
  - Staff informed the applicant that the parking variance required will cover the entire commercial center.

***C) Neighborhood Meetings***

No neighborhood meeting was required, nor was one held.

**DETAILS OF APPLICATION REQUEST**

***A) Site Area***

Gross Acres: 36.8

***B) Existing Land Use***

Subject Property: Commercial Center  
North: Multi-Family Residential  
South: Commercial; Multi-Family Residential  
East: Commercial Center; Multi-Family Residential  
West: Clark County Library; Multi-Family Residential

**C) *Planned Land Use***

Subject Property: SC (Service Commercial)  
North: M (Medium Density Residential)  
South: M (Medium Density Residential)  
East: M (Medium Density Residential); SC (Service Commercial)  
West: M (Medium Density Residential); PF (Public Facilities)

**D) *Existing Zoning***

Subject Property: C-1 (Limited Commercial)  
North: R-PD21 (Residential Planned Development – 21 Units Per Acre)  
South: R-PD20 (Residential Planned Development – 10 Units Per Acre); C-1 (Limited Commercial)  
East: C-1 (Limited Commercial)  
West: C-V (Civic); R-3 (Medium Density Residential)

**E) *General Plan Compliance***

The subject site is located in the Southwest Sector of the General Plan. Within that Sector, it has a land use designation of SC (Service Commercial). This designation complies with the underlying zoning of C-1 (Limited Commercial).

<b>SPECIAL DISTRICTS/ZONES</b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>	<b>X</b>	
Peccole Ranch	<b>X</b>	
<b>Special Overlay District</b>		<b>X</b>
<b>Trails</b>		<b>X</b>
<b>Rural Preservation Neighborhood</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

Peccole Ranch

The subject site is located within the Peccole Ranch plan area. No additional standards are applicable to the site based on this designation.

**ANALYSIS**

**A) *Zoning Code Compliance***

**A3) Parking and Traffic Standards**

Pursuant to Title 19.10, the following Parking Standards apply to the subject proposal:

Uses	GFA	Ratio	Required		Provided	
			Parking		Parking	
			Regular	Handicap	Regular	Handicap
Office	99,464 SF	1 Space / 300 SF GFA	331.5			
Restaurant	43,191 SF	1 Space / 50 SF public seating/waiting area  1 Space / 200 non-public area	503.1			
Restaurant w/Drive Through	7,685 SF	1 Space / 100 SF GFA	76.8			
Delicatessen/Donut Shop	11,562 SF	1 Space / 100 SF GFA	134.7			
Financial Institution	7,271 SF	1 Space / 200 SF GFA	36.4			
Medical Clinic	11,843 SF	1 Space / 200 SF GFA up to 2,000 SF plus 1 Space per additional 175 SF	52.6			
Medical Office	2,425 SF	1 Space / 200 SF GFA	12.1			
General Retail	119,904 SF	1 Space / 250 SF GFA	479.6			
Art Gallery	2,400 SF	1 Space / 300 SF GFA	8			
Hotel	41,240 SF  77 Rooms	1 Space / Guest Room	77			
Church	7,600 SF	1 Space / 100 SF non-fixed seating area in gathering room	35.9			
Health Club	5,115 SF	1 Space / 200 SF GFA	25.6			

Furniture/Appliance store	6,382 SF	1 Space / 500 SF GFA  1 Space / 2,500 SF GFA warehouse area	9			
School	8,068 SF	2 spaces for each classroom plus 20 spaces for administrative staff	23			
Theater*	60,000 SF. 3,606 seats	1 Space / 90 SF GFA 1 Space / Employee	666.7 15			
<b>TOTAL</b>			<b>2,440 (including handicap accessible)</b>	<b>34</b>	<b>2,404 (including handicap accessible)</b>	<b>80</b>

\*The subject site is currently a parking impaired development as it was approved based on previous code requirements. Specifically, movie theaters are now calculated at one space per four seats and one space for each employee. This would increase the theater calculation by approximately 235 spaces compared to the original approval (one space per 90 square feet of gross area and one space per employee). However, based on Title 19.10, the original approval is still applicable and the variance is only required for the number of spaces that the project exceeds its original approval. As such, the addition of pad "P" on this site has amended the parking calculation on the overall site to reflect 2,404 spaces provided where 2,440 spaces are required. This represents a deviation of approximately 1.5%.

#### ***B) General Analysis and Discussion***

The subject proposal is to allow fewer parking spaces than are required for an existing, parking impaired commercial center. This need for variance has occurred because of the addition of a pad (pad "P") which contains a mix of retail, office, and showroom space to the existing center. Additionally, the theater was originally approved via outdated parking requirements and would now require more spaces. The site is under-parked by greater than 10%, and by Title 19.10 standards is considered parking impaired. Based on the original approval, the required variance represents a deviation of approximately 1.5%.

The design of the parking on the site does not maximize ease of access or comfort for the pedestrian. Patrons of the center, at peak times, must often park far from their destination and little shading is provided. This site is not large enough to accommodate the types of uses within the center and Staff cannot support the proposed request.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by overbuilding the site. Alternative design considerations prior to construction of the most recent addition to the center would have allowed conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

## **NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

7

## **ASSEMBLY DISTRICT**

2

**SENATE DISTRICT** 8

**NOTICES MAILED** 1,069 by City Clerk

**APPROVALS** 0

**PROTESTS** 0